

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MAINE**

|                                 |   |                                     |
|---------------------------------|---|-------------------------------------|
| <b>JOSE DURAN,</b>              | ) |                                     |
|                                 | ) |                                     |
| <b>MOVANT</b>                   | ) |                                     |
| <b>v.</b>                       | ) | <b>CRIMINAL No. 2:03-CR-113-DBH</b> |
|                                 | ) | <b>(CIVIL No. 2:12-cv-201-DBH)</b>  |
| <b>UNITED STATES OF AMERICA</b> | ) |                                     |
|                                 | ) |                                     |
| <b>RESPONDENT</b>               | ) |                                     |

**ORDER AFFIRMING RECOMMENDED DECISION  
OF THE MAGISTRATE JUDGE**

On January 30, 2013, the United States Magistrate Judge filed with the court, with copies to the parties, her Recommended Decision on 28 U.S.C. § 2255 Motion. The movant filed his objection to the Recommended Decision on February 15, 2013. I have reviewed and considered the Recommended Decision, together with the entire record; and I have made a *de novo* determination of all matters adjudicated by the Recommended Decision. I affirm based solely on the statute of limitations and the absence of any basis under the caselaw for equitable tolling. The movant has not met the time limits of 28 U.S.C. § 2255(f).

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The movant is denied relief under 28 U.S.C. § 2255 with prejudice and the motion is **DISMISSED**.

Finally, I find that no certificate of appealability shall issue in the event the movant files a notice of appeal because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c).

**SO ORDERED.**

**DATED THIS 5<sup>TH</sup> DAY OF MARCH, 2013**

/s/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**